

EXHIBIT 15

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

L.E., by his next friends and parents,
SHELLEY ESQUIVEL and MARIO
ESQUIVEL,

Plaintiff,

v.

BILL LEE, et al.,

Defendants.

Case No. 3:21-cv-00835

Chief Judge Waverly D. Crenshaw Jr.
Magistrate Judge Alistair E. Newbern

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO
DEFENDANTS PENNY SCHWINN,
TENNESSEE STATE BOARD OF
EDUCATION, SARA HEYBURN
MORRISON, and the INDIVIDUAL
MEMBERS OF THE TENNESSEE
STATE BOARD OF EDUCATION
(NOS. 1 - 8)**

**RESPONSE OF DR. PENNY SCHWINN, COMMISSIONER,
TENNESSEE DEPARTMENT OF EDUCATION**

Commissioner Penny Schwinn, in her official capacity, objects and responds to Plaintiff's First Set of Interrogatories as follows. Commissioner Schwinn objects to the definition of "interscholastic sports" as overbroad because it (1) includes elementary schools and colleges, schools to which Tenn. Code Ann. § 49-6-310 does not apply, and (2) is not limited to public middle school or high school interscholastic athletic activities or events, to which Tenn. Code Ann. § 49-6-310 applies, because it also includes athletic competitions simply among students who attend public schools. Additionally, the Commissioner objects to the use of masculine pronouns to refer to L.E. because the gender-classification of student athletes is at issue in this case. Accordingly, this response refers to Plaintiff without the use of pronouns.

Commissioner Schwinn objects to the definition of “Commissioner” as overbroad and unduly burdensome to the extent it would require a response by each officer and employee of the Department to the interrogatories below. The following persons have been identified as persons who may have information relevant to this lawsuit and the responses provided below are limited to the Commissioner’s knowledge and their knowledge:

Chelsea Crawford
Chief of Staff

Charlie Bufalino
Assistant Commissioner
Policy & Legislative Affairs

Jack Powers
Director of Policy
Policy & Legislative Affairs

Jay Klein
Director of Legislative Affairs
Policy & Legislative Affairs

Robin Yeh
Policy Analyst
Policy & Legislative Affairs

Rachel Suppé
Deputy General Counsel
Office of General Counsel

Shaundraya Hersey
Staff Attorney
Office of General Counsel

Victoria Robinson
Director of Communications

INTERROGATORY NO. 1: Identify all PERSONS who provided information in preparation of YOUR Answer to the Complaint, and for each such PERSON, state the following:

- (a) Their name, address, and telephone number;
- (b) Their relationship to YOU and/or L.E.; and
- (c) A detailed description of such information.

RESPONSE:

Christy Ballard, General Counsel, and Rachel Suppé, Deputy General Counsel. Their address is 710 James Robertson Parkway, Nashville, Tennessee 37243, and telephone number is (615) 741-2921. Commissioner Schwinn objects to providing a detailed description of the information to the extent it is privileged as attorney-client communication or attorney-work product. Notwithstanding that objection, counsel provided information as to the allegations about the Commissioner and Department of Education.

INTERROGATORY NO. 2: Identify all COMMUNICATIONS, including but not limited to, any complaints or concerns YOU have received from students, teachers, parents, school officials, or school coaches, CONCERNING students who are transgender participating in INTERSCHOLASTIC SPORTS in Tennessee.

RESPONSE: In compliance with Fed. R. Civ. P. 33, the Commissioner responds with information available; because the Department of Education administers education statewide, it is not a party or person likely to have available information as to particular students. The Department received e-mails from school officials, which are produced in response to Request for Production No. 1.

INTERROGATORY NO. 3: Identify the number of students who are transgender that YOU are aware of who play or have played INTERSCHOLASTIC SPORTS in Tennessee, and for each student, please specify the sport(s) played by the student and, if applicable, the current grade of that student.

RESPONSE: In compliance with Fed. R. Civ. P. 33, the Commissioner responds with information available; because the Department of Education administers education statewide, it is not a party or person likely to have available information as to particular students. The Department is aware of more than one transgender student who participated or participates in interscholastic athletic activities or events.

INTERROGATORY NO. 4: Identify all students who participated in or are participating in INTERSCHOLASTIC SPORTS in Tennessee who have been denied the opportunity to advance in their respective sports, including by obtaining college scholarships, as a result of students who are transgender participating on sports teams.

RESPONSE: In compliance with Fed. R. Civ. P. 33, the Commissioner responds with information available; because the Department of Education administers education statewide, it is not a party or person likely to have available information as to particular students. The Department does not know the identity of those students.

INTERROGATORY NO. 5: Identify all PERSONS responsible for promulgating POLICIES or rules to implement S.B. 228.

RESPONSE:

The entities governing the public schools are responsible for adopting policies. The Department is responsible for: the Tennessee School for the Blind; Tennessee Schools for the Deaf; the Alvin C. York Agricultural Institute; and the Achievement School District.

INTERROGATORY NO. 6: Identify all the governmental interests advanced by S.B. 228 and how they are advanced by S.B. 228.

RESPONSE:

Commissioner Schwinn objects that this interrogatory seeks legal determinations and to the extent it seeks information privileged by attorney-work product. Notwithstanding these objections and subject to them, the legislature provided some governmental interests in the whereas clauses of Senate Bill 228 and those interests are advanced by safe and orderly participation in interscholastic athletic activity as provided for in the law.

INTERROGATORY NO. 7: Identify all steps YOU have taken to develop POLICIES CONCERNING the implementation and enforcement of S.B. 228, including rulemaking.

RESPONSE:

The Department revised its interscholastic athletics policies for: Tennessee School for the Blind; Tennessee Schools for the Deaf; the Alvin C. York Agricultural Institute; and the Achievement School District.

INTERROGATORY NO. 8: Describe any impacts the participation of students who are transgender in INTERSCHOLASTIC SPORTS has or had on cisgender students, including the opportunities for cisgender students to participate in school sports, advance in their respective sports, obtain college scholarships, and the safety of cisgender students who participate in INTERSCHOLASTIC SPORTS.

RESPONSE: In compliance with Fed. R. Civ. P. 33, the Commissioner responds with information available; because the Department of Education administers education statewide, it is not a party or person likely to have available information as to particular students. The Department will rely on experts and disclose them pursuant to the Fed. R. Civ. P. and case management order entered in this lawsuit.

Respectfully Submitted,

HERBERT H. SLATERY III
Attorney General and Reporter

s/ Stephanie A. Bergmeyer

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*Attorney for Governor Lee, Commissioner
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members of the Tennessee State Board of
Education, in their official capacities, and
the Tennessee State Board of Education*

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of this Response has been served by agreement through e-mail on May 13, 2022, to:

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